

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) OMAR MOHAMED	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-16-1400-M
	)	
(1) YASSIEN ISSA, and	)	
(2) BENEFIT TRUCKING INC.,	)	
	)	
Defendants.	)	

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**NOTICE OF REMOVAL**

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TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO THE PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Benefit Trucking, Inc., (referred to herein as “Defendant”), hereby removes the state court action, *Mohamed v. Issa and Benefit Trucking, Inc.*, Case No. CJ-2016-164, from the District Court of Beckham County, State of Oklahoma, to this Court. Pursuant to LCvR 81.2, a copy of the state court action docket sheet and all documents filed in the state court action are attached as Exhibits 1-5. There are no pending motions in the state court action. All parties that have been properly served in this matter consent to removal.

## **JURISDICTION**

Defendant Benefit Trucking, Inc., has the right to remove the state court action to Federal Court, pursuant to 28 U.S.C. §§ 1332 and 1441, because there exists complete diversity of all parties and the amount in controversy exceeds the jurisdictional minimum of \$75,000, exclusive of interest and costs. This Notice of Removal is filed within thirty (30) days of service on Defendants and is timely. 28 U.S.C. § 1446(b)(1).

## **INTRODUCTION**

The subject accident occurred on November 14, 2014, on Interstate 40, near mile marker 5, in Beckham County. Plaintiff was a passenger in a semi-tractor truck operated by Defendant Issa when Issa reportedly encountered black ice while driving at night. The black ice caused Issa to lose control of the vehicle, which left the roadway and turned onto its side. Plaintiff filed the state court action seeking damages for injuries he alleges he suffered as the result of the accident.

### **I. DIVERSITY**

Jurisdiction depends upon the state of things *at the time of the filing of the Petition*. *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567 (2004). Although the state Court Petition states that Plaintiff was a resident of Texas at the time of the incident in question, his residence at that time is irrelevant for purposes of removal. Plaintiff is, upon information and belief, a resident of the State of Ohio, and was a resident of the State of Ohio at the time of filing of the action.<sup>1</sup> Defendant Issa is a resident of the State of Texas,

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<sup>1</sup> Counsel for this Defendant confirmed Plaintiff's residence in the State of Ohio during a telephone conference with Plaintiff's counsel on November 30, 2016.

reflected in the summons issued to him by Plaintiff. Defendant Benefit Trucking, Inc., is a corporation existing under the laws of the State of Illinois, and having a principal place of business in that state. Therefore, complete diversity of citizenship exists between Plaintiff and all defendants.

## **II. AMOUNT IN CONTROVERSY**

The jurisdictional minimum for the amount in controversy is met as Plaintiff affirmatively states in his Petition that he seeks damages in excess of \$75,000 (Petition, p. 3 at ¶ 32).

## **III. PROCEDURAL REQUIREMENTS FOR REMOVAL**

This Notice of Removal is timely filed with this Court, pursuant to 28 U.S.C. § 1446(b), because 30 days have not elapsed since the last of the defendants were served. Additionally, pursuant to the same federal statute, one year has not elapsed since the commencement of this action. Lastly, removal is being made to the proper Federal District Court. The pertinent language of 28 U.S.C. § 1446(a) provides that the defendant shall file the Notice of Removal in “[T]he District Court of the United States for the district and division within which such action is pending.” 28 U.S.C. § 1446(a). This matter is being removed from the District Court of Beckham County, State of Oklahoma. The Western District of Oklahoma includes Beckham County. *See* 28 U.S.C. § 116(c). Therefore, removal to this Court is proper.

Pursuant to 28 U.S.C. § 1446(d), Defendants will serve written notice of the filing of this Notice of Removal upon Plaintiff, and will file a copy of the Notice of Removal with the Clerk of the District Court for Beckham County, State of Oklahoma.

### **CONCLUSION**

This case is proper for removal to this Court based upon diversity of citizenship. Plaintiff is a citizen of the State of Ohio and all Defendants joined in this lawsuit have citizenship outside of the State of Ohio. The amount of damages Plaintiff seeks exceeds the amount in controversy threshold. This Notice of Removal is timely filed. Therefore, all requirements for jurisdiction in this Court are satisfied.

Respectfully submitted,

s/ Robert P. Coffey, Jr.

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*Attorneys for Defendant Benefit Trucking, Inc.*

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 7th day of December, 2016, I electronically transmitted the foregoing/attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Greg Laird, Esq.

406 S. Boulder, Suite 480

Tulsa, OK 74103

*Attorney for Plaintiff*

s/ Robert P. Coffey, Jr.

Robert P. Coffey, Jr.